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PIRACY THE SOMALI WAY

by

Christopher L. Moylan, LCDR, USN

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Mr. Michael P. Ivanovsky and LtCol Robert Bement USAF

Maxwell Air Force Base, Alabama

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14. ABSTRACT

Piracy off the Horn of Africa represents a threat to regional stability and national security by contributing to the continuing state failure of Somalia. Somalia as a failed state represents a potential safe haven for terrorists and threatens the stability of the region. Unfortunately much of the public debate surrounding piracy has been clouded by past efforts of the international maritime community to declare piracy a major threat to global commerce. The reality is that piracy off the coast of Somalia is fundamentally different from piracy in the Strait of Malacca or anywhere else in the world. This difference has rendered much of the published academic and security writing on the topic of piracy obsolete. The United Nations and many member states have made bold declarations that something must be done about the pirates of Somalia. An international maritime coalition is currently fighting to contain the problem but cannot solve it. Many of the same nations who voice their opinions that action must be taken the loudest fail to acknowledge that the solution lies ashore, in establishing basic rule of law in Somalia. The world should have learned from the events of September 11, 2001 that failed states represent a threat to international security. Piracy is just one way that state failure in Somalia will affect regional and world stability.

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Preface

Piracy has always been a important issue in the maritime community. The tremendous increase in audacity and violence exhibited by the pirates of Somalia has brought the topic back to mainstream media coverage. With every indication that on departure from ACSC I will be operating off the Horn of Africa in support of CTF 151 this research paper became an opportunity for me to gain a better understanding of the situation and its background.

I would like to acknowledge Mr. Ivanovsky and LtCol Bement for their guidance and assistance with this paper. Their patience and direction have added considerably to the quality of this work. Their flexibility has allowed me to learn a great deal about a topic of future personal operational significance.

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Abstract

Piracy off the Horn of Africa represents a threat to regional stability and national security by contributing to the continuing state failure of Somalia. Somalia as a failed state represents a potential safe haven for terrorists and threatens the stability of the region. Unfortunately much of the public debate surrounding piracy has been clouded by past efforts of the international maritime community to declare piracy a major threat to global commerce. The reality is that piracy off the coast of Somalia is fundamentally different from piracy in the Strait of Malacca or anywhere else in the world. This difference has rendered much of the published academic and security writing on the topic of piracy obsolete.

The United Nations and many member states have made bold declarations that something must be done about the pirates of Somalia. An international maritime coalition is currently fighting to contain the problem but cannot solve it. Many of the same nations who voice their opinions that action must be taken the loudest fail to acknowledge that the solution lies ashore, in establishing basic rule of law in Somalia. The world should have learned from the events of September 11, 2001 that failed states represent a threat to international security. Piracy is just one way that state failure in Somalia will affect regional and world stability.

Introduction

Piracy off the Horn of Africa represents a threat to regional stability and national security by contributing to the state failure of Somalia. The recent surge of high profile incidents of piracy off the coast of Somalia has lifted the discussion of pirates out of the cesspool of pop-culture and returned its media discussion to foreign policy and defense. This increased attention will hopefully contribute to increased study, vigilance and enforcement. However, care must be taken not to allow the media discussion to be hijacked by parties who are uninformed or are seeking to advance personal or bureaucratic interests. Several articles and academic papers have criticized the United States for failing to fight piracy and have incorrectly termed piracy as maritime terrorism.[1] The International Maritime Bureau has declared, "The situation is out of control."[2] The reality is that piracy and maritime terrorism are related, but distinct threats to international commerce and security. To confuse the two terms is to risk tailoring a strategy to the wrong fight and to overstate regional threats invites the wrong response.

Piracy, like insurgency, thrives on weak governance and requires certain local conditions to flourish making it a problem in multiple regions and not a global issue. This paper looks at the rise in violence and hijackings at sea off the Horn of Africa. These attacks are fundamentally different from the previous experience in the modern piracy hotspot of Southeast Asia and have rendered a great deal of previous piracy writing obsolete in terms of likely target identification and assessment of the threat. Piracy off the coast of Somalia at this point is still distinctly separate from the threat of maritime terrorism. There is some debate, but those who should be considered the most reliable still assert that there is also still no present link between pirates and traditional terrorists. However, if left unchecked, piracy off the coast of Somalia will continue to contribute to state failure in Somalia and regional instability.

Piracy has been documented as a threat to commerce and civilization since ancient times and is mentioned in both the Greek and Roman traditions. Thucydides writes, in his *History of the Peloponnesian War,* that Minos, the King of Crete, "first possessed a navy for suppression of piracy."[3] In 75 B.C. Julius Caesar was kidnapped for ransom by pirates operating on the Mediterranean. Legend has it that Caesar was insulted by the ransom of 20 talents and instructed the pirates to raise their demand to 50. Caesar also promised the pirates when freed he would hunt them down. The ransom was paid and good to the pirate's pledge Caesar was released. Caesar also made good on his promise, his men captured the pirates, and he had them crucified.[4] Piracy continued to harass commerce on the seas through the age of exploration and reached its zenith during the colonial age of sail. Many pirates even enjoyed state sponsorship with semi-legal status at times in their careers under letters of marque as privateers. As early as 1690 European privateers from the Caribbean began making expeditions to troll the waters off the coast of Somalia and strike vessels in the Bab el Mandeb."[5]

The 1856 Paris Declaration Respecting Maritime Law effectively ended the age of privateers by outlawing the issuance of letters of marque in times of war and setting legal standards for neutral and belligerent shipping on the high seas. The colonial powers then, through aggressive patrolling, virtually stamped out piracy as a threat to international commerce in the last half of the nineteenth century. As Martin Murphy wrote, "In 1925 it was reasonable to assume piracy had become almost obsolete, due to the ubiquity of the Royal Navy and other naval forces and forceful response to piracy on the part of the imperial powers."[6]

The Modern Age of Piracy

That piracy is alive and well again should really be no surprise. Many former colonies lack the ability to effectively enforce security in their waters and yet their sovereign status

serves as legal impediment for those who may possess the power to do so. In 1945 there were 51 sovereign states, today there are 192 independent members of the United Nation. Peter Earl summed it up best, "This makes piracy one of the dangers of the post-imperial world in which the navies of the great powers can no longer patrol where and how they wish and former colonies have neither the naval power nor the resources and will to eradicate the problem."[7] Meanwhile there has been a steady increase in the volume of trade transiting the sea. As of 2005, 80% of all trade volume, or roughly $7.8 trillion annually, travels by sea.[8] The International Maritime Organization began the first systematic attempt to record acts of piracy in 1984 "having noted with great concern the increasing number of incidents involving piracy and armed robbery the previous year."[9] In 1992 the International Maritime Bureau (IMB) established the Piracy Reporting Center (PRC) in Kuala Lumpur, Malaysia.

One of the problems combating the resurgence of piracy is the lack of clarity in modern legal authority to combat acts of violence at sea. There has been a lack of agreement on defining piracy and in piracy reporting, even before introducing the term maritime terrorism into the discussion. The United Nations Convention on the Law of the Sea (UNCLOS) sets the legal definition of piracy in Article 101 as:

a) Any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
  i. On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
  ii. Against a ship, aircraft, persons or property in a place outside the jurisdiction of any state;
b) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft.[10]

The International Maritime Bureau defines piracy as, "An act of boarding or attempting to board any ship with the intent to commit theft or any crime and with the intent or capability to use

force in the furtherance of that act."[11] The key distinction between these two definitions is not just in the act but in the jurisdiction over territorial waters and its implications for enforcement. Therefore the dividing line is that piracy occurs on the high seas and armed robbery or other crimes at sea occur in territorial waters.

For the waters off Somalia, the United Nations has made the distinction virtually irrelevant with regards to enforcement, by passing Security Council Resolution 1846 which in part;

> *Decides* that for a period of 12 months from the date of this resolution
> States and regional organizations cooperating with the TFG in the fight against
> piracy and armed robbery at sea off the coast of Somalia, for which advance
> notification has been provided by the TFG to the Secretary-General, may:
> (a) Enter into the territorial waters of Somalia for the purpose of repressing
> acts of piracy and armed robbery at sea, in a manner consistent with such action
> permitted on the high seas with respect to piracy under relevant international
> law; and
> (b) Use, within the territorial waters of Somalia, in a manner consistent with
> such action permitted on the high seas with respect to piracy under relevant
> international law, all necessary means to repress acts of piracy and armed robbery
> at sea.[12]

In short, for nations participating in the anti-piracy patrols, their authority in Somali territorial waters is the same as on the high seas. This is not the case anywhere else in the world, where by legal standard, piracy cannot take place in territorial waters and only the host nation has authority for law enforcement. In the past pirates off Somalia were known to flee to the safety of the 12 nautical mile limit of Somali territorial waters when pursued by Western naval forces.

The distinction between attacks in territorial waters and those on the high seas is one of several discrepancies in piracy reporting that clouds the issue. By the UNCLOS legal convention inside of territorial waters, host nations have jurisdiction against armed robbery or other criminal acts committed against vessels and crew. On the high seas, outside the territorial waters of any nation, all nations have authority to arrest pirates and "arraign them under

domestic laws."[13] This is further complicated in the case of the United States Navy which has no domestic law enforcement role.

Using the International Maritime Bureau's (IMB) definition, even acts of robbery occurring in territorial waters are defined and reported as piracy through the Piracy Reporting Center (PRC). This leads to confusion in reporting and analyzing trends and threats.   It is critical to understanding the local threat to analyze the types of piratical acts that are perpetrated by groups in a particular region. Many attacks recorded as piracy involve theft and robbery aboard vessels at anchor or in port. This is more a problem of port security than one of piracy. Reclassifying these crimes as non-piracy offenses would significantly increase the clarity of reporting on the threat to shipping. Some have pointed out that the PRC is vulnerable to bias as it is almost exclusively funded by maritime shipping companies and insurers, with vested interests in keeping piracy in the headlines.[14]   Overinflating the dangers of piracy as a worldwide threat boarders on "crying wolf," and hides the true nature of the threat.

To understand piracy data, it is essential to analyze it by region and by type of attack. Generalizing worldwide data instead of regional it is possible to miss dramatic changes in pirate activity like that seen in 2008.   Consider the data presented in the International Maritime Bureau's Piracy Reporting Center 2008 Worldwide Piracy Report released in January 2009. For calendar year 2008 there were 293 reported incidents of piracy against ships, up 11% from 2007 when there were 263 incidents reported.[15]   This clearly represents a significant increase but not a dramatic spike, nor would it indicate a fundamental change in the maritime security picture. This number is actually down significantly from the average of 352 incidents per year recorded from 2000 to 2006.[16]   What changed however, was the types of attack and the amount of violence suffered by crews of merchant ships.

Failure to differentiate between types of piracy hides the true local nature of piracy and can mask the real threats. Looking at worldwide numbers, the increase in violence off Somalia appears to be countered by the dramatic improvements in maritime security in Indonesia, which saw only 28 incidents, compared to a high in 2003 of 121. The types of attacks in these two areas, however, are completely different. In reality most of the attacks in these two regions should not even be categorized together. The increase in pirate activity in the Gulf of Aden and off the east coast of Somalia is fundamentally different from what has been observed in the last few years in Indonesia and the Strait of Malacca in terms of violence, type of vessels attacks and location of vessel at time of attack.

If one looks at worldwide data the most alarming trend is that the use of weapons nearly doubled from 2007 to 2008. Weapons were used in 139 incidents, resulting in 11 crew members killed and 21 missing or presumed dead.[17] Included in these incidents are 49 vessel hijackings with 889 crew taken hostage and 46 vessels being fired upon. The reality is that a great deal of this can be attributed to the spike in incidents off the coast of Somalia and in the Gulf of Aden which saw 111 reported incidents.[18] Of the 28 reported incidents in Indonesian waters, the majority were "opportunistic low-level attacks" according to Captain Pottengal Mukundan of the IMB.[19] Lee Yin Mui, assistant director of research at the Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships a Sea (RECAAP) notes, "The severity is much greater in Somalia, where the pirates are very heavily armed, as compared to Southeast Asia, where the robbers usually just have knives."[20]

In the first six months of 2008 there were no hijackings in the Straits of Malacca and only two attacks involved violence, the other 11 were theft of stores or valuables.[21] Of the actual pirate attacks recorded by the IMB in 2006 nearly 63% took place while ships were either at

anchor or berthed. These attacks are recorded by the IMB's PRC as incidents of piracy while according to the UNCLOS definition they should be reported as robbery or armed robbery at sea. From this data it is easy to see that using piracy as a blanket definition for incidents at sea and inside territorial waters right up to and including vessels moored to the dock can create some confusion about the true security picture in a region.

Accurate threat assessment requires studying the local preference of targets and methods of attacks. Martin Murphy states, "Large vessels on international voyages are not pirate's prime targets."[22] This comment is based on a study conducted using data compiled between 2000 and 2005, "That showed an overall reduction in assaults on ships over 20,000 gross registered tonnes (GRT)."[23] This study also showed that from 2000 to 2005 only five abductions took place on vessels of more than 1,000 GRT compared to 26 on smaller vessels and that most attacks are on local craft rather than on vessels engaged in international trade.[24] While this may have been and is currently true in the Straits of Malacca, it is decidedly not the case in the Gulf of Aden.

Looking at 2008 data it is clear that the piracy threat off Somalia is fundamentally different from the rest of the world. In Somalia the primary focal point of pirate operations is large scale kidnap and ransom at sea. As such, the target vessels are not the same as those in other parts of the world where the primary target is theft of goods and cash. Of the 49 vessels hijacked in 2008, 42 were hijacked by Somalia pirates off the Horn of Africa and in the Gulf of Aden. Second place belongs to Nigerian pirates with a total of five vessels taken off the West Coast of Africa in the Gulf of Guinea.[25] As of October 23, 2008 of the 581 total crew being held as hostages worldwide, 537 were being held on their vessels off the coast of Somalia.[26] The year 2008 saw an increase not just in the number of attacks off the Somali coast but also in the sophistication and audacity of the pirates. The Somali pirate activity may have made a great

deal of previous writing on the subject obsolete. Captain Priayantha Perera of the MV Rosen was held hostage by Somali pirates for 41 days in 2007 and released following the payment of $100,000 ransom.   Interviewed by "The Guardian" following his release Capt Perera is quoted, "The pirates who took us told me they were no longer interested in small ships - their main aim is to get tankers and big container ships. They are aiming for British, American, Japanese and Korean vessels. They know that's where the money is."[27]

On September 25th Somali pirates captured the MV Faina, a Ukrainian flagged transport containing Soviet-era weapons including 33 T-72 tanks, small arms and ammunition.[28] Then on October 21st, Somali pirates seized the largest vessel ever hijacked, the Saudi owned, Liberian flagged, Sirius Star a 318,000 ton very large crude carrier (VLCC) carrying more than 2 million barrels of crude oil.[29] Martin Murphy addressed this possibility in his work published by Adelphi in 2007 noting, "Most naval and military equipment and personnel is usually transported on civilian vessels, which if hijacked would have potentially serious security consequences."[30] Murphy also noted "Vessels carrying oil and gas could, if hijacked by pirates, pose a danger to security because of their cargoes." Ironically Murphy then discounted the potential for such an attack on vessels carrying either oil and gas or military cargo as "remote."[31]

The Horn of Africa as Ideal Pirate Territory

The confluence of multiple factors creates a near perfect environment for piracy to thrive in the waters off the Horn of Africa.   In their separate analyses of modern piracy both Peter Chalk and Martin Murphy identify seven factors that contribute to piracy and allow it to flourish. There is considerable overlap when one combines their two models to create a hybrid of factors as a single tool, resulting in a combined ten factors. Nine of these factors directly apply to the

Gulf of Aden and waters off Somalia making it quite clear why piracy has boomed in this region. A closer look at Chalk's reasoning for using the Asian Financial Crises as a cause including, decreasing revenues for security forces, increased job loss, and poverty, shows that what made the Asian Financial Crises a factor in the rise of pirate activity in Southeast Asia already applied to Somalia.[32] Under the Murphy Model, Somalia would be the epitome of: *Favorable Geography, Conflict and Disorder*, *A Permissive Political Environment* and *Under-funded Law Enforcement*.[33] For Chalk, Somalia's lack of governance represents: *General Difficulties with Maritime Surveillance, Lax Coastal Security,* and *Corruption and Dysfunctional Systems of National Criminal Justice*.[34]

Geography has always played a large role in piracy. As Murphy points out, "For the most part, piracy has historically taken place close to coasts or in narrow seas."[35] The Gulf of Aden is approximately 1,000 miles long and takes a merchant ship about two days to transit with approximately 20,000 vessels transiting this body of water every year.[36] The Bab al-Mandeb, only 13 miles wide at its narrowest point, funnels all traffic between the Red Sea and Gulf of Aden into narrow shipping lanes. These narrow shipping lanes contribute to piracy by creating a target rich environment for pirates. The narrow seas and high traffic also force ships to slow their speed of advance and restrict their ability to maneuver making them more vulnerable to attack. Chalk argues, "Exacerbating this vulnerability has been the growing tendency of many shipping companies to replace full staffing complements with skeleton crews" as a method to cut costs.[37]

While a detailed history of Somalia would not add to this analysis, a brief description is required to understand the unique nature of Somali piracy. Chester Crocker's analysis of state failure declared, "When state failure sets in, the balance of power shifts ominously against

ordinary civilians and in favor of armed entities operating outside the law (or with tacit official approval)."[38] If weak governance allows piracy to grow then the situation in Somalia is near ideal for development. First, there has been virtually no functioning government in Somalia since the collapse of the Mohamed Siad Barre government in early 1991. Barre's authoritarian government had imposed "a degree of stability" since seizing power in a coup in 1969.[39] The fall of the central government and subsequent failure of competing rebel groups to consolidate power created a power vacuum. The former British territory of Somaliland declared independence from the Republic of Somalia, and the rest of the country "descended into turmoil, factional fighting, and anarchy."[40] A United Nations humanitarian relief force to alleviate famine between 1993 and 1995 withdrew after high casualties and a failure to establish order. During these years of virtual lawlessness, foreign fishing trawlers from as far away as Spain and Korea began to deplete the local fishing stocks. Coastal fisherman began to attack trawlers until the trawler crews fought back with automatic weapons. During this period one of the pirate groups operating out of the port city of Eyl began calling themselves "the Somali Coast Guard" another has used the name Somali Marines. Many of the pirate factions have tried to put forth the notion that they were and are protecting their communities from exploitation.[41] Illegal fishing is estimated by the UN to cost Somalia as much as $100million annually, and there are reports of "large-scale toxic waste dumping in Somali waters."[42]

Following a two year peace process, led by the Government of Kenya, Abdullahi YUSUF Ahmed was elected as President of the Transitional Federal Government (TFG) of Somalia in October 2004.   The TFG includes a 275 member parliament, but its institutions remain weak.[43] The best efforts to contain the piracy actually occurred during the most tenuous times for the TFG. In June 2006, militias under the control of the Council of Islamic Courts (CIC), a loose

coalition of Islamist factions, defeated powerful Mogadishu warlords and took control of the capital and much of the central coastal region. The CIC expanded control militarily throughout much of southern Somalia and threatened to overthrow the TFG in Baidoa.

During its brief control over the central coastal area there was a dramatic drop in piracy off the coast of Somalia coinciding with the enforcement of strict Sharia Law.[44] Ethiopia, concerned over links between some CIC factions, the al-Qaida East Africa network, and the al-Qaida operatives responsible for the bombings of the US embassies in Tanzania and Kenya, intervened militarily in December 2006. The ensuing round of violence resulted in the destruction of the military capability of the CIC. In September 14, 2007 the CIC in conjunction with other opposition parties formed the Alliance for the Re-liberation of Somalia (ARS). The ARS and TFG signed a three month peace deal in June of 2008 that was renewed in November.

The security situation in Somalia is still extremely tenuous and dynamic. Ethiopian forces finished pulling out of Somalia in accordance with the peace deal on January 26, 2009. This was followed by several car bombings including one in Mogadishu that killed 15 people.[45] The Shabab, or youth group which has distanced itself from the both the CIC, ARS and the peace process has adopted many of the urban guerilla tactics currently seen in Iraq and Afghanistan and has claimed its leaders were educated in Afghanistan.[46] Susan Rice, the United States Ambassador to the United Nations, termed Somalia the number one failed state at "the very bottom of the governance performance spectrum."[47] The security situation in Somalia has greatly contributed to the pirate's access to weapons. While Somalia has been under an arms embargo it is reported that both Eritrea and Ethiopia have been arming rival factions in an attempt to limit the other's influence.[48] It is estimated that are 15 million small arms in Somalia, making the number close to 1.7 small arms per person. A Jane's Security assessment of the situation in

Somalia declares that small arms are "ingrained in the culture and seen as a status symbol as well as means of protection."[49] Somali pirates are now known to regularly attack with automatic rifles and rocket propelled grenades (RPGs).

Somalia as a failed state is not just a permissive environment for piracy, but the state of its economy can be viewed to be contributing as a root cause in fueling demand. Somalia suffers from severe poverty; it is estimated that as many as a third of the population receives food aid and as many as 1 million require food aid to survive.[50] Fishing stocks have been depleted, and there is little prospect for economic development.   In this difficult economic environment estimates of pirate ransom payments received in 2008 range from $50 to $300 million.[51] Kenya's foreign minister estimated that Somali pirates collected over $150 million in ransom payments in 2008.[52] The pirates spend their money freely and their hard currency has created a support system around pirate operating bases that depend on piracy for its livelihood.   Peter Beaumont says of Eyl, "Boatyards produce not fishing boats, but vessels intended for smuggling and piracy. Fuel suppliers and merchants equip the boats. Restaurants have grown up to feed hundreds of hostages taken from the tankers and carriers."[53] This has served to garner local community support and contributed to a ten-fold increase in estimated numbers of pirates in the last 5 years from just under 100 to between 1,100 and 1,200.[54]

Assessing the Threat

Some have noted that the United States, which benefits the most from global commerce, has been slow to respond to the problem of piracy and have accused the United States of failing in its duty as hegemon.[55] The reality is that presently piracy in Somalia is not being correctly assessed as a threat to regional stability. Many media sources have attempted to describe piracy as maritime terrorism and or link piracy to traditional terrorism. Peter Chalk, a piracy expert at

RAND, states in his 2008 *The Maritime Dimension of International Security* "To date, there has been no credible evidence to support speculation about this nexus."[56] Chalk continues on to point out pirates and terrorists have distinct and disparate goals. The global jihadist terror network seeks the destruction of the global maritime trade, and the pirate is seeking financial gain from that trade.[57] An International Institute for Strategic Studies forum interview cited by Martin Murphy stated, "There is no evidence terrorists are gaining any benefit from piracy."[58]

So far Somali pirates have not provided any direct evidence to counter the assessment that their intentions are to operate as a strictly criminal element seeking profit. Consider the evidence of the case of the MV Faina carrying a large number of both heavy weapons (33 T-72 tanks) and small arms. Speculation rose as to the intentions of the pirates, but the pirates indicated that their only interest is money from the ransom and that they had no designs on the cargo. As well as the January 29, 2009 hijacking of the MV Longchamp, a 4,316 ton Liquefied Petroleum Gas (LPG) tanker, reportedly carrying vinyl chloride monomer, a highly toxic chemical used primarily for making plastics.[59] The commandeering of an LPG tanker appears quite ominous considering the numerous speculative articles about the use of an LPG or LNG tanker being used as a floating bomb or to release dangerous chemicals. However the pirates, after overpowering the crew, allowed them to notify their company operations center of the hijacking as they steered for Somali waters, indicating that yet again the pirate's aim is financial gain and not to sneak the vessel into a port to commit an act of terrorism.

While experts assess the lack of congruent goals and cooperation between pirates and terrorists, it is important to consider the second order effect of the money generated by the ransoms paid. Martin Murphy cites a study by Swedish academic Stefan Eklof estimating, "In 1997 a gang member operating in the Malacca Strait could expect to take home between $500

and $700 from each attack."[60]   These figures represent petty theft and are not in the same category as the potential payout from kidnap for ransom off Somalia; the Sirius Star was released after the payment of reportedly $3 million and the MV Faina generated $3.5 million.[61]   When asked about a link between terrorists and piracy in a press conference January 16, 2009, Vice Admiral Gortney Commander Naval Forces Central Command, the senior United States Navy officer in the region replied:

> No, we look very, very carefully for links to terrorism and -- any form of terrorism -- and we do not see that link right now. And the reason we watch for it is terrorism is fueled by money. And so anywhere that there -- people are making a lot of money, we think the terrorists will go. But right now we do not see that linkage. Al-Shabab, which is operating in the south -- the al-Shabab and the pirates, they hate each other. The clans and al-Shabab hate each other right now. We'd want to be very careful that whatever we do, we don't drive them together. But we do not see that link now and we -- it would be a significant game-changer if we see it develop.[62]

That Shabab may be able to look past their differences with the pirates should not be discounted. It is important to note that while it was in control over territory, the CIC fought piracy as un-Islamic and managed to control hijacking. However, Shabab has distanced itself from the former CIC and the peace process with the TFG and may be willing to establish a mutually beneficial relationship with pirates.

Some reports show that game-changing event VADM Gortney described may have already occurred in April 2008, following the hijacking of the French luxury cruise ship SV Le Ponant. In this incident the ship was taken and a $2 million ransom paid. Following payment and release of the hostages, French special forces stormed the pirate base capturing six pirates and recovering some of the ransom money. According to a Jane's Intelligence Review article, "This incident encouraged pirate leaders to request training from their contacts within Shabab, as

well as foreign instructors allegedly contacted through Shabab."[63] The training program began around July 2008 and took place in the area around Hobyo and Eyl. The pirates allegedly paid Shabab and the foreign instructors approximately $1million for this training. Additionally, some pirate groups pay protection money ranging from five to 20 percent of the ransom if Shabab has trained their pirates. While the report contains numerous statements about expanding business ties in arms trading and smuggling, it does note the link between the pirates and Shabab is fragile and could fracture over Shabab's desire to involve the pirates more directly in their struggle against the TFG.[64]

Denying Terrorists Safe Haven

Following the September 11, 2001, attack on the World Trade Center, the United States organized a coalition naval task force in the region, CTF150, to conduct maritime security operations (MSO):

> MSO help develop security in the maritime environment, which promotes stability and global prosperity. These operations complement the counterterrorism and security efforts of regional nations and seek to disrupt violent extremists' use of the maritime environment as a venue for attack or to transport personnel, weapons or other material.[65]

In August of 2008 the Coalition established a Maritime Security Patrol Area (MSPA) in an effort to designate shipping lanes for additional patrol to provide an increased measure of security for merchant ships traveling in the Gulf of Aden. This was followed by three months of high profile attacks, 50 in total. Then on January 8, 2009, the Combined Maritime Forces established CTF151 to target directly the anti-piracy mission while maintaining CTF150 with the MSO mission.[66]

The solution to the problem of piracy does not lie at sea and CTF151 cannot solve the piracy crisis off the Horn of Africa alone. Said VADM Gortney, "The problem of piracy is, and continues to be, a problem that begins ashore and is an international problem that requires an international solution. We believe the establishment of CTF-151 is a significant step in the right direction."[67] Admiral Gortney has also sought to increase the cooperation and efforts of merchants traveling these waters to aid in their own defense, noting, "the most effective measures we've seen to defeat piracy are non-kinetic and defensive in nature. The merchant ships have been doing a great job stepping up and utilizing these methods to defeat piracy."[68] The shipping industry has put forth some good initiatives aimed at combating hijackings in the near term. These include the Oil Companies International Marine Forum's (OCIMF) 42page information booklet, "Practical Measure to Avoid, Deter, or Delay Piracy Attacks."[69]

Pirate activity near Somalia has generated a great deal of media attention. In late 2008 and thus far in 2009 stories in print and online appear almost daily. The IMB and the PRC have called on the United States and the United Nations to take action; however, there are some who have said that the overall impact of piracy is minimal. Estimates on the annual cost of piracy to international shipping range from $1 billion to as high as $25 billion. This does appear to be a reasonable cost of business for the $7.8 trillion in cargo shipped worldwide when compared to the estimated loss of between $30 and $50 billion from land-based cargo theft. Of note, these estimates all predate the spike in violence off Somalia in late 2008 and insurance rates for some vessels transiting the Gulf of Aden have gone up 10-fold. Also, after the hijacking of the Sirius Star, AP Moller-Maersk diverted its fleet of 50 oil tankers to use a route around the Cape of Good Hope instead of the Suez Canal. This trip added about 20 days and increases fuel costs. Besides the direct financial costs of piracy there is the issue of the 889 crew members taken

hostage; however most have reported their treatment as "less than barbaric." All this considered, the greatest threat of piracy in Somalia is its symbiotic relationship with that countries state of failure.

Strategic Importance

> State failure directly affects a broad range of US interests, including the promotion of human rights, good governance , the rule of law, religious tolerance, environmental preservation, and opportunities for US investors and exporters. It contributes to regional insecurity, weapons proliferation, narcotics trafficking, and terrorism. [70] Chester Crocker

The only way to solve the problem lies on land in establishing a functioning government in Somalia. Returning basic governance and security to Somalia will take an excruciating amount of effort and is well beyond the scope of this paper and the author. As Susan Rice said "Building state capacity is too complex, expensive, and long-term a challenge for the United States to undertake effectively alone."[71] However, a long term United States military presence is likely to bring into question the legitimacy of any efforts to bring stability. Many in the region, while deploring the violent hijackings at sea, already question the motives of American military intervention. Yemeni strategic analyst Jalal Al Sharabi "described what was going on in the Gulf of Aden as a strategic game"…and said, "the US wants to control the Gulf of Aden from its military base in Djibouti and prevent an Iranian attempt to establish a coalition with any western African country. I believe this is an introduction to possible tougher tension between the US and Iran."[72]

CTF151 continues to work with partner nations to contain the threat of piracy. This alone will not result in the end of piracy in the region. The Gulf of Aden is approximately 1 million square miles. When factoring in the area where the MV Sirius Star was hijacked, the pirate's area of operations expands to well over 2.5 million square miles. Royal Navy Commodore

Keith Winstanley states, "The pirates will go somewhere we are not. If we patrol the Gulf of Aden, then they will go to Mogadishu. If we go to Mogadishu, they will go to the Gulf of Aden."[73] Egypt and Yemen hosted a conference on November 20, 2008, with the stated aim of establishing a common anti-piracy strategy which included representatives from Eritrea, Sudan, Saudi Arabia, Somalia, Jordan, and Djibouti.[74] Even a regional cooperative security effort similar to those in place to combat piracy in the Strait of Malacca will have limited effect at containing Somali piracy without addressing the root cause a lawless, destitute, fractured Somalia.

Even if the popular analysis is correct and there are no direct links between the pirates and terrorists, the fight against Somali piracy is still an important battle in the long war. Piracy is not merely a symptom of weak governance in Somalia but it is part of a vicious cycle where it is also a contributor to weak governance. Somali pirates represent an obstacle to the establishment of effective governance in Somalia and are therefore contributing to an ongoing insurgency. David Galula defines insurgency as "a protracted struggle conducted methodically, step by step, in order to attain specific intermediate objectives leading finally to the overthrow of the existing order."[75] In much of Somalia there is no order.

The TFG's domination by a small number of clans limits perceived legitimacy throughout much of Somalia. The TFG has shown it is open to working to address legitimacy issues and is the recognized government by the United Nations, and is presently the best hope for establishing order. As Galula states, "The exercise of political power depends on the tacit or explicit agreement of the population, or at worst, on its submissiveness." [76] The pirates have shown the ability to operate across clan lines and their very livelihood depends on the TFG's failure to consolidate power. Peter Chalk notes, "Piracy can play a pivotal role in undermining

and weakening legitimacy by encouraging corruption among elected and government officials."[77] The pirates' increased wealth will contribute to their ability to fight enforcement both openly and subversively. The establishment of institutions which aim to enforce the rule of law has already been complicated by rampant bribery and corruption. Peter Beaumont reports, "The Special Representative for the UN Secretary-General for Somalia, Ahmedou Ould-Abdallah has directly accused the rulers of Puntland of permitting piracy," even alleging that ransom money would "be used to fund the 2009 presidential elections in Puntland."[78]

Galula states that insurgency requires two essentials: "the insurgent's having a cause, and his being helped initially by the weakness of his opponent."[79] It is difficult to find a government with a weaker grasp on stability than the TFG. Galula further states that "To deprive the insurgent of a good cause amounts to solving the country's basic problems."[80] Denying the pirates a cause is also a reason that coalition forces must be very careful in military actions and avoid driving al-Shabab and the pirates together by providing a common enemy. Lousie Richardson argues, "National or global "wars" against their criminal acts give terrorists status, legitimacy and renown, while war, including invasion, increases grievances and itself encourages recruits to extremist movements."[81]

The greatest success in the battle against piracy so far has been on the ground. All material encountered in research has agreed that the solution to the problem of piracy off the coast of Somalia lies on land. The Islamist SCIC succeeded in shutting down the pirates of Haradere, Kismayu, Merka, and Hobyo while they were in control of the ports. While the pirates enjoyed sanctuary and support from the local populations the people were not willing to take up arms to support them. Galula reminds the counterinsurgent "The complicity of the population is not to be confused with the sympathy of the population; the former is active, the latter inactive,

and the popularity of the insurgent's cause is insufficient by itself to transform sympathy into complicity."[82]

The solution to piracy off Somalia will be a lengthy and complex process. Any government put in to power with overt outside assistance will struggle with legitimacy. The key component to the ARS agreeing to a cease fire was the removal of Ethiopian troops. Attempts to bring peace failed under the banner of the United Nations. The African Union has struggled to match their promise for peacekeepers or achieve any level of stability. The danger to shipping has prompted the latest calls from the Arab Union to take the lead in the peace process. Any United States or Western presence would likely be reminiscent of colonialism and be greeted with hostility. The Somali solution will take time, be painful and require significant resources. That does not mean that it is not in the interest of the international community to support it.

Conclusion

Piracy in Somalia represents a fundamentally different threat than has been seen in the modern age of piracy. Taking advantage of poor security on land the pirates have had the opportunity to organize, train and equip themselves in a manner not seen anywhere else in the world. The sophistication and audacity of their attacks has made most of what had been published on the topic of piracy obsolete. Unfortunately in the effort to maintain awareness on piracy, the PRC has obscured the problem of organized crime in a pile of statistics on petty theft. The Naval coalition CTF-151 cannot stop piracy on the water. The coalition must however try to contain the problem and the international community must address the issue of Somalia's failed state. United States Africa Command's public website states that "CJTF-HOA's mission is to build security capacity, promote regional cooperation, and protect coalition interests to prevail

against extremism."[83]   Included in this must be containing the threat of piracy.   Terrorism specialist Brain Michael Jenkins states, "while we should not take piracy as a marker for terrorism, it is a useful indication of the level of security…whatever means are used to suppress piracy will have a "knock-on" effect of making the operating environment more difficult for terrorists." [84]

The long term solution to Somalia's status as a failed state is in the interest of the region and the entire international community.   The outcry from economic powerhouses to protect international commerce and shipping stands in sharp contrast to the virtual silence over the suffering of the Somali people.   The harsh reality is that the two are related and until there is stability, Somalia will continue to pose a security threat to the world.   Unfortunately if this threat is not addressed one day piracy may appear to be the lesser of threats posed by the state failure of Somalia.

Glossary

ARS	Alliance for Re-Liberation of Somalia
CIC	Council of Islamic Courts
CJTF	Combined Task Force
CTF-150	Combined Task Force 150
CTF-151	Combined Task Force 151
FoC	Flag of Convenience
HOA	Horn of Africa
IMB	International Maritime Bureau
LNG	Liquefied Natural Gas
LPG	Liquefied Petroleum Gas
MSPA	Maritime Security patrol Area
PRC	Piracy Reporting Center
ReCAAP	Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships at Sea
RPG	rocket-propelled grenade
SCIS	Supreme Council of Islamic Courts
TFG	Transitional Federation Government
TFP	Transitional Federation Parliament
UIC	Union of Islamic Courts
UNCLOS	United Nations Convention on the Law of the Sea

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